

ASSEMBLY BILL

No. 1019

Introduced by Assembly Member Eduardo Garcia

February 26, 2015

An act to amend Sections 12704 and 12709 of the Business and Professions Code, and to add and repeal Title 11.8 (commencing with Section 14190.15) of Part 4 of the Penal Code, relating to metal theft, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1019, as introduced, Eduardo Garcia. Metal theft and related recycling crimes.

Existing law provides that any person who feloniously steals, takes, or carries away the personal property of another, or who fraudulently appropriates property that has been entrusted to him or her, is guilty of theft. Existing law also provides that a person who, being a dealer in or collector of junk, metals, or secondhand materials, buys or receives any wire, cable, copper, lead, solder, mercury, iron, or brass that he or she knows or reasonably should know is ordinarily used by, or ordinarily belongs to, a railroad or other transportation, telephone, telegraph, gas, water, or electric light company or county, city, or city and county without using due diligence to ascertain that the person selling or delivering the same has a legal right to do so, is guilty of criminally receiving that property.

Existing law establishes the Department of Justice, which is headed by the Attorney General and tasked with, among other things, representing California in criminal cases.

This bill, until January 1, 2020, would require the Department of Justice to establish a Metal Theft Task Force Program designed to

enhance the capacity of the department to serve as the lead law enforcement agency in the investigation and prosecution of illegal recycling operations, and metal theft and related recycling crimes, and would authorize the department to enter into partnerships, as defined, with local law enforcement agencies, regional task forces, and district attorneys for the purpose of achieving the goals of the program. The bill would authorize the department to enter into an agreement with any state agency for the purpose of administering the program. The bill would establish the Metal Theft Task Force Fund, to be administered by the Department of Justice, and would continuously appropriate all moneys in that fund to the department for the purposes of the program, thereby making an appropriation.

The bill would require the Department of Justice to submit a comprehensive report to the Legislature, no later than December 31, 2018, on the status and progress, since the year 2016, of the program in deterring, investigating, and prosecuting illegal recycling operations, and metal theft and related recycling crimes. The bill would specify that the program would not be implemented until the Department of Justice determines that sufficient moneys have been deposited in the fund to implement the program.

Existing law requires, until January 1, 2019, a weighmaster who is a junk dealer or recycler to pay an additional annual fee of \$500 to the Department of Food and Agriculture for each location at which the weighmaster operates, as specified, for the administration and enforcement of specified provisions.

The bill would extend the operation of the above provisions until January 1, 2020, and would additionally require a weighmaster who is a junk dealer or recycler, as defined, to pay a specified additional license fee to be deposited into the Metal Theft Task Force Fund and to be expended by the Department of Justice for the purpose of administering the Metal Theft Task Force Program. The bill would prohibit the proceeds of this fee from exceeding an aggregate total of \$2,000,000 per year.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 12704 of the Business and Professions Code, as amended by Section 3 of Chapter 518 of the Statutes of 2013, is amended to read:

12704. (a) A weighmaster shall pay to the department the following license fee for each license year as applicable to the operation:

(1) Seventy-five dollars (\$75) if the weighmaster is operating at a fixed location.

(2) Thirty dollars (\$30) for each additional fixed location at which the weighmaster is operating.

(3) Two hundred dollars (\$200) if the weighmaster is operating at other than a fixed location.

(4) Twenty dollars (\$20) for each deputy weighmaster.

(b) In addition to the license fees set forth in subdivision (a), a weighmaster who is a recycler or a junk dealer as defined in Section 21601 or is performing services on behalf of a recycler or junk dealer shall also pay to the department the following license fee for each license year as applicable to the operation:

(1) Five hundred dollars (\$500) if the weighmaster is operating at a fixed location.

(2) Five hundred dollars (\$500) for each additional fixed location at which the weighmaster is operating.

(3) Five hundred dollars (\$500) if the weighmaster is operating at other than a fixed location.

(c) (1) *In addition to the license fees set forth in subdivisions (a) and (b), a weighmaster who is a recycler or a junk dealer as defined in Section 21601, or who is performing services on behalf of a recycler or junk dealer, shall also pay to the department the following license fee:*

(A) *One thousand dollars (\$1,000) if the weighmaster is operating at a fixed location.*

(B) *One thousand five hundred dollars (\$1,500) if the weighmaster is operating at other than a fixed location.*

(2) *The proceeds of this fee shall not exceed an aggregate total of two million dollars (\$2,000,000) per year.*

~~(e)~~

(d) "License year" means the period of time beginning with the first day of the month the weighmaster is required to be licensed

1 in this state, and ending on the date designated by the secretary
2 for expiration of the license, or yearly intervals after the first
3 renewal.

4 ~~(d)~~

5 (e) “Location” means a premise on which weighing, measuring,
6 or counting devices are used.

7 ~~(e)~~

8 (g) This section shall remain in effect only until January 1, ~~2019~~
9 2020, and as of that date is repealed, unless a later enacted statute,
10 that is enacted before January 1, ~~2019~~ 2020, deletes or extends
11 that date.

12 SEC. 2. Section 12704 of the Business and Professions Code,
13 as added by Section 4 of Chapter 518 of the Statutes of 2013, is
14 amended to read:

15 12704. (a) A weighmaster shall pay to the department the
16 following license fee for each license year as applicable to the
17 operation:

18 (1) Seventy-five dollars (\$75) if the weighmaster is operating
19 at a fixed location.

20 (2) Thirty dollars (\$30) for each additional fixed location at
21 which the weighmaster is operating.

22 (3) Two hundred dollars (\$200) if the weighmaster is operating
23 at other than a fixed location.

24 (4) Twenty dollars (\$20) for each deputy weighmaster.

25 (b) “License year” means the period of time beginning with the
26 first day of the month the weighmaster is required to be licensed
27 in this state, and ending on the date designated by the secretary
28 for expiration of the license, or yearly intervals after the first
29 renewal.

30 (c) “Location” means a premise on which weighing, measuring,
31 or counting devices are used.

32 (d) This section shall become operative on January 1, ~~2019~~
33 2020.

34 SEC. 3. Section 12709 of the Business and Professions Code,
35 as amended by Section 5 of Chapter 518 of the Statutes of 2013,
36 is amended to read:

37 12709. (a) All license fees collected pursuant to this chapter
38 shall be deposited in the Department of Food and Agriculture Fund
39 to be expended by the department for the administration and

1 enforcement of this chapter, except as provided in ~~subdivision (b)~~
2 *subdivisions (b) and (c)*.

3 (b) License fees collected pursuant to subdivision (b) of Section
4 12704 shall be deposited in a special account in the Department
5 of Food and Agriculture Fund to be expended by the department
6 for the administration and enforcement of Section 12703.1.

7 *(c) License fees collected pursuant to subdivision (c) of Section*
8 *12704 shall be deposited into the Metal Theft Task Force Fund*
9 *established pursuant to Section 14190.20 of the Penal Code to be*
10 *expended by the Department of Justice for the administration of*
11 *the Metal Theft Task Force Program established pursuant to*
12 *Section 14190.25 of the Penal Code.*

13 ~~(e)~~
14 (d) This section shall remain in effect only until January 1, ~~2019~~
15 *2020*, and as of that date is repealed, unless a later enacted statute,
16 that is enacted before January 1, ~~2019~~ *2020*, deletes or extends
17 that date.

18 SEC. 4. Section 12709 of the Business and Professions Code,
19 as added by Section 6 of Chapter 518 of the Statutes of 2013, is
20 amended to read:

21 12709. (a) All license fees collected pursuant to this chapter
22 shall be deposited in the Department of Food and Agriculture Fund
23 to be expended by the department for the administration and
24 enforcement of this chapter.

25 (b) This section shall become operative on January 1, ~~2019~~
26 *2020*.

27 SEC. 5. Title 11.8 (commencing with Section 14190.15) is
28 added to Part 4 of the Penal Code, to read:

29
30 TITLE 11.8. THEFT AND RECYCLING OF METALS

31
32 14190.15. For the purposes of this title, the following
33 definitions shall apply:

34 (a) "Agency" means a regional task force, a local law
35 enforcement agency, or a district attorney.

36 (b) "Department" means the Department of Justice.

37 (c) "Fund" means the Metal Theft Task Force Fund.

38 (d) "Junk" has the same meaning as set forth in Section 21600
39 of the Business and Professions Code.

1 (e) “Junk dealer” has the same meaning as set forth in Section
2 21601 of the Business and Professions Code.

3 (f) “Program” means the Metal Theft Task Force Program.

4 (g) “Recycler” has the same meaning as set forth in Section
5 21605 of the Business and Professions Code.

6 14190.20. (a) The Metal Theft Task Force Fund is hereby
7 established within the State Treasury. Notwithstanding Section
8 13340 of the Government Code, the fund is hereby continuously
9 appropriated to the department for the purposes set forth in this
10 title. Transfers to the Metal Theft Task Force Fund shall be
11 deposited in the State Treasury, or in a state depository bank
12 approved by the Treasurer.

13 (b) The fund shall consist of moneys deposited into it received
14 from, or recovered by, the federal government, industry, and private
15 sources, moneys appropriated by the Legislature, and from fees
16 collected pursuant to subdivision (c) of Section 12704 of the
17 Business and Professions Code. General Fund moneys shall not
18 be deposited into the fund nor used to start up, implement, or
19 support the continuing administration of the provisions of this title.

20 (c) The fund shall be administered by the department.

21 (d) Moneys distributed from the fund pursuant to the program
22 established pursuant to Section 14190.25 are intended to ensure
23 that the department is equipped with the necessary personnel and
24 tools to successfully combat metal theft and related recycling
25 crimes, with a primary focus of shutting down illegal recycling
26 operations, which include, but are not limited to, all of the
27 following offenses:

28 (1) Illegal recycling operations, in which a junk dealer or
29 recycler does not possess any of the following:

30 (A) A current business license.

31 (B) A stormwater permit, application for a stormwater permit,
32 or a statement indicating that the applicant has either filed an
33 application for a stormwater permit or is not required to obtain a
34 stormwater permit.

35 (C) A weighmaster’s license issued pursuant to Chapter 7
36 (commencing with Section 12700) of Division 5 of the Business
37 and Professions Code.

38 (2) The theft of metals, including, but not limited to, nonferrous
39 metals.

40 (3) The purchase and recycling of stolen metals by recyclers.

1 (4) The transportation of stolen metals from junk dealers and
2 recyclers in this state to another state.

3 (5) The transportation of stolen metals from another state to this
4 state.

5 (e) (1) After deduction of the department's actual and necessary
6 administrative costs, moneys in the fund shall be expended for the
7 exclusive purpose of enhancing the capacity of the department to
8 serve as the lead law enforcement agency in deterring,
9 investigating, and prosecuting illegal recycling operations, and
10 metal theft and related recycling crimes.

11 (2) Moneys in the fund may be expended for the purpose of
12 enabling the department to enter into partnerships with local law
13 enforcement agencies, regional task forces, or district attorneys.

14 14190.25. (a) (1) The department shall establish and
15 administer the Metal Theft Task Force Program.

16 (2) The department may enter into an agreement with any state
17 agency for the purpose of administering the program.

18 (b) (1) The program shall be designed to enhance the capacity
19 of the department to serve as the lead law enforcement agency in
20 the investigation and prosecution of illegal recycling operations
21 and metal theft and related recycling crimes.

22 (2) The department shall consult at least twice per calendar year
23 with pertinent recycling trade associations, including, but not
24 limited to, the Institute of Scrap Recycling Industries, California
25 Chapter and the California Metal Coalition, to determine the best
26 allocation of resources, for purposes of the program, from an
27 industry perspective, in preventing metal theft, with an emphasis
28 on eliminating illegal recycling operations from the state.

29 (c) The department may enter into partnerships with local law
30 enforcement agencies, regional task forces, or district attorneys.
31 For purposes of this title, "partnership" means a collaborative effort
32 involving financial contributions by the department to achieve the
33 goals of the program established by this title.

34 14190.30. No later than December 31, 2018, the department
35 shall, notwithstanding Section 10231.5 of the Government Code,
36 submit a comprehensive report to the Legislature on the status and
37 progress, since the year 2016, of the program in deterring,
38 investigating, and prosecuting illegal recycling operations, and
39 metal theft and related recycling crimes. The report shall include,
40 but be not limited to, all of the following information:

- 1 (a) The number of metal theft and related recycling crime cases
- 2 filed.
- 3 (b) The number of metal theft and related recycling crimes cases
- 4 investigated.
- 5 (c) The number of victims involved in the cases reported.
- 6 (d) The number of convictions obtained.
- 7 (e) The total aggregate monetary loss suffered by the victims,
- 8 including damage caused by the theft.
- 9 (f) The number of illegal recycling operations or illegal junk
- 10 dealers or recyclers, or both, shut down.
- 11 (g) An accounting of moneys received and expended in each
- 12 program year, commencing with 2016, which shall include all of
- 13 the following:
- 14 (1) The amount of moneys received and expended by the
- 15 department.
- 16 (2) The use to which those moneys were put, including payment
- 17 of salaries and benefits, operating expenses, equipment purchases,
- 18 and allowable expenditures.
- 19 (3) Any other relevant information requested.
- 20 14190.35. (a) The program established pursuant to this title
- 21 shall not be implemented until the department determines that
- 22 sufficient moneys have been deposited in the Metal Theft Task
- 23 Force Fund to implement the provisions of this title.
- 24 (b) The department shall only be required to implement the
- 25 provisions of this title upon the availability of moneys in the fund
- 26 in an amount sufficient to cover all costs relating to the startup,
- 27 implementation, and continuing administration of the provisions
- 28 of this title.
- 29 14190.40. The department may adopt regulations as needed to
- 30 administer this title.
- 31 14190.45. This title shall remain in effect only until January
- 32 1, 2020, and as of that date is repealed, unless a later enacted
- 33 statute, that is enacted before January 1, 2020, deletes or extends
- 34 that date.